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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 JUDITH LEE YOUNG,

8 Plaintiff,

9 v.

10 DESERT VILLA PARTNERS LP,
11 also known as Desert Villa
12 Apartments, JAN ANGERMAN, and
13 INDGO LLT,

Defendants.

NO. 4:20-CV-5005-TOR

ORDER DISMISSING COMPLAINT

14 BEFORE THE COURT is Plaintiff's Complaint (ECF No. 1). This matter
15 was submitted for consideration without oral argument. The Court has reviewed
16 the record and files herein, and is fully informed. For the reasons discussed below,
17 the claims asserted in Plaintiff's Complaint are DISMISSED with prejudice.

18 **BACKGROUND**

19 This case concerns Plaintiff's allegations that Defendants have violated the
20 Fair Housing Act and other nondiscrimination laws by failing to provide

1 reasonable disability accommodations to Plaintiff in their provision of rental
2 housing. Plaintiff alleges that she has a variety of medical conditions that impact
3 her functioning. ECF No. 1 at 6. Plaintiff alleges that Defendants, her landlord,
4 have given Plaintiff notice on several occasions that she has violated her
5 apartment's lease terms by incurring excessive noise complaints, smoking in non-
6 smoking areas, over-watering plants resulting in water damage to multiple
7 apartment units, and encroaching on other tenants' portions of a shared balcony.
8 ECF No. 1 at 6-8. Plaintiff alleges that she attempted suicide when Defendants
9 threatened to evict Plaintiff. ECF No. 1 at 8. Plaintiff's factual allegations and
10 legal claims are duplicative of two other cases Plaintiff has filed in this Court. *See*
11 No. 4:14-cv-5094-TOR; No. 4:19-cv-5226-TOR.

12 **DISCUSSION**

13 **A. Legal Sufficiency Review**

14 Under the Prison Litigation Reform Act of 1995, the Court is required to
15 screen a complaint filed by a party seeking to proceed *in forma pauperis*. 28
16 U.S.C. § 1915(e); *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001)
17 (noting that “the provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to
18 prisoners”). Section 1915(e)(2) provides:

19 Notwithstanding any filing fee, or any portion thereof, that may have
20 been paid, the court shall dismiss the case at any time if the court
determines that (A) the allegation of poverty is untrue; or (B) the
action or appeal (i) is frivolous or malicious; (ii) fails to state a claim

1 on which relief may be granted; or (iii) seeks monetary relief against a
2 defendant who is immune from such relief.

3 28 U.S.C. § 1915(e)(2).

4 A claim is legally frivolous under § 1915(e)(2)(B)(i) when it lacks an
5 arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325
6 (1989), *superseded by statute*, 28 U.S.C. §1915(d), *as recognized in Lopez v.*
7 *Smith*, 203 F.3d 1122, 1126 (9th Cir. 2000). The Court may, therefore, dismiss a
8 claim as frivolous where it is based on an indisputably meritless legal theory or
9 where the factual contentions are clearly baseless. *Neitzke*, 490 U.S. at 327.

10 “The standard for determining whether a plaintiff has failed to state a claim
11 upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the
12 Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.”
13 *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). Accordingly, “[d]ismissal
14 is proper only if it is clear that the plaintiff cannot prove any set of facts in support
15 of the claim that would entitle him to relief.” *Id.* “In making this determination,
16 the Court takes as true all allegations of material fact stated in the complaint and
17 construes them in the light most favorable to the plaintiff.” *Id.* Mere legal
18 conclusions, however, “are not entitled to the assumption of truth.” *Iqbal*, 556
19 U.S. at 679. The complaint must contain more than “a formulaic recitation of the
20 elements of a cause of action.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555

1 (2007). It must plead “enough facts to state a claim to relief that is plausible on its
2 face.” *Id.* at 570. The Court construes a *pro se* plaintiff’s pleadings liberally,
3 affording the plaintiff the benefit of any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342
4 (9th Cir. 2010) (quotations and citation omitted).

5 Plaintiff’s allegations of disability discrimination are duplicative of the
6 claims currently pending in her other open federal case, No. 4:19-cv-5226-TOR.
7 Here, Plaintiff develops additional factual allegations about the parties’ dispute
8 over Plaintiff smoking on the property, but this claim was already raised in
9 Plaintiff’s other case. *See* 4:19-cv-5226-TOR, ECF No. 1 at 4, ¶ 12; ECF No. 1-1
10 at 3. The only legal issue raised in this Complaint not raised in Plaintiff’s other
11 open federal case is Plaintiff’s argument that Defendants have a *Brady* obligation
12 to present exculpatory evidence in Plaintiff’s favor in the course of this ongoing
13 conflict between the parties. *See* ECF No. 1 at 10-11 (citing *Brady v. Maryland*,
14 373 U.S. 83 (1963)). *Brady* imposes a duty on criminal prosecutors to produce
15 exculpatory evidence to a criminal defendant; it imposes no obligation on the civil
16 defendants in this case. *Brady*, 373 U.S. at 87. Plaintiff’s alleged *Brady* violation
17 has no arguable basis in law and is legally frivolous. 28 U.S.C. § 1915(e)(2)(B)(i).
18 Plaintiff’s other allegations of disability discrimination and violations of the Fair
19 Housing Act are duplicative of the claims currently pending in her other open
20

1 federal case, No. 4:19-cv-5226-TOR, and are not properly the subject of a second
2 duplicative suit.

3 **ACCORDINGLY, IT IS HEREBY ORDERED:**

4 1. Plaintiff's Complaint is **DISMISSED with prejudice** as frivolous under
5 28 U.S.C. § 1915(e)(2)(B).

6 2. Plaintiff's *in forma pauperis* status is **REVOKED**.

7 The District Court Executive is directed to enter this Order, enter judgment
8 of dismissal with prejudice, forward a copy to counsel of record and Plaintiff, and
9 **CLOSE** the file.

10 **DATED** February 21, 2020.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge